

Claims 4 and 7 have been rejected under 35 U.S.C. § 112, second paragraph, for indefiniteness with respect to several terms in the claims. Claim 4 has been amended as suggested by the Examiner. With regard to claim 7, the Examiner contends that claim 7 recites confusing broad and narrow language. Claim 7 has been amended for clarification purposes by more particularly describing the application step.

Claims 1, 3 and 9 have been rejected under 35 U.S.C. § 102 over Marotta (U.S. Patent 3,159,536). Marotta relates to hydrophobic siliceous materials that are dusted or brushed on surfaces over which insects crawl. The hydrophobic siliceous materials are insecticidal. Marotta mentions that naturally occurring kaolin is a hydrophobic siliceous material. The Examiner notes Table I with particularity.

In order to establish anticipation, each and every element of a claim must be disclosed in a single cited art document. Marotta fails to disclose a number of claimed elements. For example, with respect to claims 1, 9 and 16, Marotta fails to disclose applying a slurry. With respect to claims 1 and 9, Marotta fails to disclose applying calcined kaolins, hydrophobic calcined kaolins, hydrophobic calcium carbonates and calcium carbonates. And finally with respect to claims 1, 9 and 16, Marotta fails to disclose applying a material to the surface of fruits, vegetables, trees, flowers, grasses, roots and landscape and ornamental plants. Since Marotta does not disclose each and every element of claims 1 and 9 (and new claim 16), Marotta cannot anticipate claims 1, 3 and 9.

Claims 2, 4-6 and 8 have been rejected under 35 U.S.C. § 103 over Marotta. The Examiner contends that it would have been obvious to use particulate material having the claimed sizes. The Examiner further contends that it would have been obvious to treat virtually any object with the dust of Marotta. Applicants respectfully disagree.

The differences between the claims and Marotta noted above would not have motivated one skilled in the art to apply a slurry of specifically defined material to

the surface of fruits, vegetables, trees, flowers, grasses, roots and landscape and ornamental plants. First, Marotta clearly fails to teach or suggest applying a slurry as Marotta teaches applying a dry material (dust). Applying a slurry has a number of advantages over applying a dust. Particulate material applied from a slurry has more surface to surface contact with the substrate and has a more ordered packing (constitution of film after application). As a result, with regard to claims 1, 9 and 16, particulate material applied from a slurry has markedly increased durability and thus lasts much longer on a given substrate compared to the application of a dust.

Furthermore, with regard to claims 1, 9 and 16, Marotta clearly fails to teach or suggest applying a material to the surface of fruits, vegetables, trees, flowers, grasses, roots and landscape and ornamental plants. With regard to claims 1 and 9, Marotta fails to teach or suggest applying calcined kaolins, hydrophobic calcined kaolins, hydrophobic calcium carbonates and calcium carbonates. Although Marotta mentions kaolin, kaolin and calcined kaolin are different materials with different properties and molecular constitution. Calcining involves a heat treatment which includes one or more of expelling volatile components, oxide formation, changes in the molecular structure (phase changes) and/or other chemical and/or physical changes.

Given all of the differences between Marotta and the claims, one skilled in the art would not have been motivated by Marotta to practice the methods of the present invention. Therefore, the claims are unobvious over Marotta.

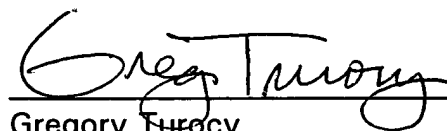
Claim 7 has been rejected under 35 U.S.C. § 103 over Marotta in view of the Jack article. Jack generally relates to an investigation into the effect of suspended clays on the population growth of ciliates. Jack does not cure all of the deficiencies of Marotta. For example, Jack fails to teach or suggest applying a material to the surface of fruits, vegetables, trees, flowers, grasses, roots and landscape and ornamental plants or using calcined kaolins, hydrophobic calcined kaolins, hydrophobic calcium carbonates and calcium carbonates. Moreover, Jack

does not teach or suggest drying suspended clay. Accordingly, claim 7 is unobvious and therefore patentable over the cited art.

Should the Examiner believe that a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number listed below.

In the event any fees are due in connection with the filing of this document, the Commissioner is authorized to charge those fees to our Deposit Account No. 18-0988.

Respectfully submitted,  
RENNER, OTTO, BOISSELLE & SKLAR, P.L.L.



Gregory Turocy  
Reg. No. 36,952

1621 Euclid Avenue  
Nineteenth Floor  
Cleveland, Ohio 44115-2191  
Telephone (216) 621-1113  
Facsimile (216) 621-6165  
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